

## § 253.5

## 37 CFR Ch. II (7–1–14 Edition)

(7) For the performance of such a work in a feature presentation of a station of NPR:

2003–2007 ..... \$1.61

(8) For the performance of such a work as background or theme music in a program of a station of NPR:

2003–2007 ..... \$0.57

(9) For purposes of this schedule the rate for the performance of theme music in an entire series shall be double the single program theme rate.

(10) In the event the work is first performed in a program of a station of PBS or NPR, and such program is subsequently distributed by PBS or NPR, an additional royalty payment shall be made equal to the difference between the rate specified in this section for a program of a station of PBS or NPR, respectively, and the rate specified in this section for a PBS or NPR program, respectively.

(b) *Payment of royalty rate.* The required royalty rate shall be paid to each known copyright owner not later than July 31 of each calendar year for uses during the first six months of that calendar year, and not later than January 31 for uses during the last six months of the preceding calendar year.

(c) *Records of use.* PBS and NPR shall, upon the request of a copyright owner of a published musical work who believes a musical composition of such owner has been performed under the terms of this schedule, permit such copyright owner a reasonable opportunity to examine their standard cue sheets listing the nondramatic performances of musical compositions on PBS and NPR programs. Any local PBS and NPR station that shall be required by the provisions of any voluntary license agreement with ASCAP or BMI covering the license period January 1, 2003, to December 31, 2007, to prepare a music use report shall, upon request of a copyright owner who believes a musical composition of such owner has been performed under the terms of this schedule, permit such copyright owner to examine the report.

(d) *Terms of use.* The fees provided in this schedule for the performance of a musical work in a program shall cover performances of such work in such pro-

gram for a period of four years following the first performance.

[57 FR 60954, Dec. 22, 1992. Redesignated and amended at 59 FR 23993, May 9, 1994, and amended at 63 FR 2144, Jan 14, 1998; 67 FR 77171, Dec. 17, 2002]

### § 253.5 Performance of musical compositions by public broadcasting entities licensed to colleges and universities.

(a) *Scope.* This section applies to the performance of copyrighted published nondramatic musical compositions by noncommercial radio stations which are licensed to colleges, universities, or other nonprofit educational institutions and which are not affiliated with National Public Radio.

(b) *Voluntary license agreements.* Notwithstanding the schedule of rates and terms established in this section, the rates and terms of any license agreements entered into by copyright owners and colleges, universities, and other nonprofit educational institutions concerning the performance of copyrighted musical compositions, including performances by noncommercial radio stations, shall apply in lieu of the rates and terms of this section.

(c) *Royalty rate.* A public broadcasting entity within the scope of this section may perform published nondramatic musical compositions subject to the following schedule of royalty rates:

(1) For all such compositions in the repertory of ASCAP, \$277 annually.

(2) For all such compositions in the repertory of BMI, \$277 annually.

(3) For all such compositions in the repertory of SESAC, \$90 annually.

(4) For the performance of any other such compositions: \$1.

(d) *Payment of royalty rate.* The public broadcasting entity shall pay the required royalty rate to ASCAP, BMI and SESAC not later than January 31 of each year.

(e) *Records of use.* A public broadcasting entity subject to this section shall furnish to ASCAP, BMI and SESAC, upon request, a music-use report during one week of each calendar year. ASCAP, BMI and SESAC shall not in any one calendar year request

more than 10 stations to furnish such reports.

[57 FR 60954, Dec. 22, 1992, as amended at 58 FR 63294, Dec. 1, 1993; 60 FR 61655, Dec. 1, 1995; 61 FR 60613, Nov. 29, 1996; 63 FR 2145, Jan. 14, 1998; 63 FR 66042, Dec. 1, 1998; 64 FR 67188, Dec. 1, 1999; 65 FR 75167, Dec. 1, 2000; 66 FR 59699, Nov. 30, 2001; 67 FR 71105, Nov. 29, 2002; 67 FR 77171, Dec. 17, 2002; 68 FR 67045, Dec. 1, 2003; 69 FR 69823, Dec. 1, 2004; 70 FR 72077, Dec. 1, 2005; 71 FR 69486, Dec. 1, 2006]

**§ 253.6 Performance of musical compositions by other public broadcasting entities.**

(a) *Scope.* This section applies to the performance of copyrighted published nondramatic musical compositions by radio stations not licensed to colleges, universities, or other nonprofit educational institutions and which are not affiliated with National Public Radio.

(b) *Voluntary license agreements.* Notwithstanding the schedule of rates and terms established in this section, the rates and terms of any license agreements entered into by copyright owners and noncommercial radio stations within the scope of this section concerning the performance of copyrighted musical compositions, including performances by noncommercial radio stations, shall apply in lieu of the rates and terms of this section.

(c) *Royalty rate.* A public broadcasting entity within the scope of this section may perform published nondramatic musical compositions subject to the following schedule of royalty rates:

(1) For all such compositions in the repertoire of ASCAP, in 2003, \$460; in 2004, \$475; in 2005, \$495; in 2006, \$515; in 2007, \$535.

(2) For all such compositions in the repertoire of BMI, in 2003, \$460; in 2004, \$475; in 2005, \$495; in 2006, \$515; in 2007, \$535.

(3) For all such compositions in the repertoire of SESAC, in 2003, \$98; in 2004, \$100; in 2005, \$102; in 2006, \$104; in 2007, \$106.

(4) For the performance of any other such compositions, in 2003 through 2007, \$1.

(d) *Payment of royalty rate.* The public broadcasting entity shall pay the required royalty rate to ASCAP, BMI and SESAC not later than January 31 of each year.

(e) *Records of use.* A public broadcasting entity subject to this section shall furnish to ASCAP, BMI and SESAC, upon request, a music-use report during one week of each calendar year. ASCAP, BMI and SESAC each shall not in any one calendar year request more than 5 stations to furnish such reports.

[57 FR 60954, Dec. 22, 1992. Redesignated at 59 FR 23993, May 9, 1994, and amended at 60 FR 8198, Feb. 13, 1995; 63 FR 2145, Jan. 14, 1998; 67 FR 77172, Dec. 17, 2002]

**§ 253.7 Recording rights, rates and terms.**

(a) *Scope.* This section establishes rates and terms for the recording of nondramatic performances and displays of musical works, other than compositions subject to voluntary license agreements, on and for the radio and television programs of public broadcasting entities, whether or not in synchronization or timed relationship with the visual or aural content, and for the making, reproduction, and distribution of copies and phonorecords of public broadcasting programs containing such nondramatic performances and displays of musical works solely for the purpose of transmission by public broadcasting entities. The rates and terms established in this schedule include the making of the reproductions described in 17 U.S.C. 118(d)(3).

(b) *Royalty rate.* (1)(i) For uses described in paragraph (a) of this section of a musical work in a PBS-distributed program, the royalty fees shall be calculated by multiplying the following per-composition rates by the number of different compositions in that PBS-distributed program:

	2003–2007
Feature .....	\$112.40
Concert feature (per minute) .....	33.75
Background .....	56.81
Theme:	
Single program or first series program .....	56.81
Other series program ....	23.06

(ii) For such uses other than in a PBS-distributed television program, the royalty fee shall be calculated by